



FOIA request - Information Pertaining to Selenium TMDLs and CERCLA

Andrea Santarsiere to: FOIA HQ

11/22/2013 03:39 PM

Cc: Marv Hoyt

Please accept the following FOIA request made by Greater Yellowstone Coalition on November 22, 2013. We look forward to a complete and timely response.

Sincerely,
Andrea Santarsiere

Andrea Santarsiere
Greater Yellowstone Coalition
Idaho Conservation and Legal Associate
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FOIA to EPA HQ November 2013 re Selenium TMDL & CERCLA.pdf



Greater Yellowstone Coalition

People protecting the lands, waters, and wildlife of the Greater Yellowstone Ecosystem, now and for future generations.

BOZEMAN • CODY • IDAHO FALLS • JACKSON

162 N. Woodruff Ave. • Idaho Falls, Idaho 83401 • (208) 522-7927 • www.greateryellowstone.org

November 22, 2013

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Tel: (202) 566-1667
Fax: (202) 566-2147
Email: hq.foia@epa.gov

RE: FOIA request – Information Pertaining to Selenium TMDLs and CERCLA

Pursuant to the Freedom of Information Act,¹ the Greater Yellowstone Coalition requests the following documents:

1. A document listing all selenium total maximum daily loads (“TMDLs”) that have been designated in the United States, including the daily load amount, the state and waterbodies for which the TMDL is designated, the source of selenium contamination, and the date the TMDL was designated. If such a list is unavailable, we request a copy of all documents relating to the designation of selenium TMDLs in the United States;
2. Documents discussing or referencing the existence of activities under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) to forego the need for designation of a total maximum daily load for any pollutant for waters listed as impaired.
 - a. This may include but not be limited to documents showing approval and/or disapproval to foregoing a TMDL as a result of CERCLA clean-up activities;
 - b. This may also include but not be limited to approval or disapproval by EPA to list a waterbody under Category 4(b) as not needing a TMDL due to the existence of CERCLA clean-up activities.

¹ 5 U.S.C. § 552.

The Environmental Protection Agency's regulations relevant to the Freedom of Information Act provide a fee waiver for individuals who are not seeking information for commercial benefit and when the information will be used for the public interest.²

This request meets these requirements. The Greater Yellowstone Coalition is a nonprofit conservation organization. We print quarterly newsletters that are freely distributed to our individual and business members. Because of their high regard for the public lands in southeast Idaho, including lands managed by the Bureau of Land Management, our members have significant interest in the above-mentioned documents. GYC intends to use this information to help us better understand the issues surrounding phosphate mining in southeast Idaho and the refusal by the Idaho Department of Environmental Quality to designate selenium TMDLs for waters impaired by selenium pollution. GYC will then use that understanding to educate and inform our members and the public about these issues.

The requested documents concern the operations or activities of the government since the documents and information contained discuss EPA's duties in implementing the requirements of the Clean Water Act.

Over the past 15 years phosphate mining in southeast Idaho has been an area of keen public interest and controversy. GYC's more than forty thousand members and supporters can be counted amongst those in the public with an interest in this issue. The documents that we have requested contain information that will allow the public to better understand how and why decisions on this and other phosphate-related projects in southeast Idaho are made and how the public can more effectively guide decisions on how Idaho's waters are managed.

The requested documents concern EPA's management of matters of great public interest, and GYC has substantial ability to disseminate information to the general public. The information requested would contribute to the public's understanding of phosphate mining and how waters impaired by selenium pollution in southeast Idaho are managed. Specifically, the requested documentation will inform the public as to the legal duties of the Idaho Department of Environmental Quality and the EPA to designate selenium TMDLs for waters in southeast Idaho listed as impaired due to selenium contamination.

GYC was formed in 1983 to address the growing threat of habitat fragmentation within the Greater Yellowstone Ecosystem and has been involved with various projects and proposals on the Forest for over a decade. GYC currently represents more than 40,000 members and supporters nationwide. GYC will use the requested information to inform it's extensive and diverse membership as well as the general public about phosphate mining activities through its quarterly publications, newsletters, press releases and web page.

² 40 C.F.R. § 2.107(l).

Since the requested files exist only in internal EPA files, they are not generally available to the public nor are the requested documents easily available to the public.

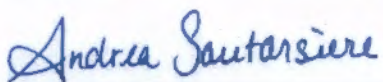
The Greater Yellowstone Coalition has no commercial interest in the requested documents. It is a non-profit organization dedicated to the conservation and protection of the public and private lands of the Greater Yellowstone Ecosystem. As such, GYC does not undertake any commercial activities or activities for profit. The uses for which it requests the documents are entirely non-commercial, focusing on monitoring EPA management activities related to phosphate mining and associated cleanup in southeast Idaho. Since GYC has no commercial interest in the requested records to balance against the public interest in disclosure, disclosure is "primarily"—and is, in fact, *exclusively*—in the public interest.

As the foregoing demonstrates, GYC is fully entitled to a fee waiver for the requests made in this letter. We respectfully request that you grant such a fee waiver and produce the requested documents requested by the FOIA to our Idaho Falls, Idaho address noted on this letterhead. If possible we would prefer to receive these documents in digital format.

We would like to also note that throughout the past three years, EPA has repeatedly delayed in providing information requested in several FOIA requests made by GYC. Delay tactics have included denying our fee waiver requests (which were later granted), transferring our FOIA request to multiple EPA offices, and simply not responding in a timely manner. We request that EPA act in a more timely and consistent manner in responding to this request, and we are prepared to hold the agency accountable for any unnecessary delays in responding.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Andrea Santarsiere". The signature is fluid and cursive, with the first name "Andrea" and last name "Santarsiere" clearly legible.

Andrea Santarsiere
Idaho Conservation and Legal Associate